



Signed and Filed: July 13, 2022

A handwritten signature in black ink, appearing to read "Hannah L. Blumenstiel", is written over a horizontal line.

HANNAH L. BLUMENSTIEL  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re: ) Case No. 13-30827 HLB  
)  
DAVID WILLIAM BARTENWERFER and ) Chapter 7  
KATE MARIE BARTENWERFER, )  
)  
Debtors. )  
)  
KIERAN BUCKLEY, ) Adv. Proc. No. 13-3185 HLB  
)  
Plaintiff, )  
)  
v. )  
)  
DAVID WILLIAM BARTENWERFER and )  
KATE MARIE BARTENWERFER, )  
)  
Defendants. )

**ORDER GRANTING IN PART AND DENYING IN PART MOTION TO CONFIRM THAT  
STAY DOES NOT PREVENT RENEWAL OF JUDGMENT OR FOR RELIEF FROM STAY**

This case is scheduled to come before the court on July 14, 2022 for a hearing on Plaintiff Kieran Buckley's Motion to Confirm that Stay Does Not Prevent Renewal of Judgment or for Relief from Stay.<sup>1</sup> Defendants/Debtors David and Kate Bartenwerfer (the "Bartenwerfers") have opposed the Motion.<sup>2</sup> Mr. Buckley replied.<sup>3</sup> Having reviewed the pleadings and the

<sup>1</sup> Dkt. 315 (the "Motion").

<sup>2</sup> Dkt. 317.

<sup>3</sup> Dkt. 318.

1 materials in support thereof, the court will exercise its  
2 discretion under B.L.R. 9013-2(a) to rule on the Motion without  
3 oral argument. For the reasons and to the extent articulated  
4 below, the court will grant the Motion in part and deny it in  
5 part and will vacate the July 14 hearing.

6 On October 4, 2012 the Superior Court of San Francisco  
7 entered a judgment in Mr. Buckley's favor against the  
8 Bartenwerfers for \$444,671.<sup>4</sup> The Bartenwerfers commenced the  
9 underlying Chapter 7 case shortly thereafter.<sup>5</sup>

10 Mr. Buckley then filed this adversary proceeding to prevent  
11 a discharge of the State Judgment.<sup>6</sup> On April 19, 2016, this  
12 court entered a judgment in Mr. Buckley's favor<sup>7</sup> which, following  
13 several amendments,<sup>8</sup> included: (1) a declaration that a portion  
14 (\$153,945) of "[t]he damages awarded by the state court . . .  
15 [are] non-dischargeable pursuant to 11 U.S.C. § 523(a)(2)(A)";  
16 (2) a nondischargeable award of attorney's fees incurred during  
17 the state-court action; and (3) a nondischargeable award of costs  
18 incurred in the adversary proceeding.<sup>9</sup>

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21 <sup>4</sup> Dkt. 315-1 (the "State Judgment"), p. 18. The damages awarded by the State  
22 Judgment were subsequently reduced to \$234,671. Dkt. 69, p. 4.

23 <sup>5</sup> Bankr. Case No. 13-30827, Dkt. 1.

24 <sup>6</sup> Complaint to Determine Dischargeability of Debt 11 U.S.C. Section 523(a)(2)  
(Dkt. 1).

25 <sup>7</sup> Dkt. 70 (the "Bankruptcy Judgment").

26 <sup>8</sup> See Dkts. 94, 108, 125, 140, and 143.

27 <sup>9</sup> See Dkt. 143 at p. 2. The Bankruptcy Judgment, as amended, also includes  
28 awards of pre- and post-petition interest on the nondischargeable state-court  
damages and attorney's fees. Id.

1       The Bartenwerfers appealed<sup>10</sup> and obtained "a stay of the  
2 enforcement of [the Bankruptcy Judgment] pending the outcome of  
3 appeal."<sup>11</sup> A series of appeals of the Bankruptcy Judgment  
4 followed, the most recent of which is now pending before the  
5 Supreme Court of the United States.<sup>12</sup> The Stay Order remains in  
6 effect.<sup>13</sup>

7       On June 16, 2022, out of apparent concern for California's  
8 10-year limitations period on the enforcement of money  
9 judgments,<sup>14</sup> Mr. Buckley filed the instant Motion, seeking  
10 confirmation that the Stay Order does not prevent renewal of the  
11 Bankruptcy and/or State Judgments. Alternatively, Mr. Buckley  
12 seeks relief from the Stay Order to effectuate such renewals.

13       In opposition, the Bartenwerfers do not address the legal  
14 interaction between the Stay Order and judgment renewal. Rather,  
15 they question Mr. Buckley's motivation in seeking renewal, given  
16 that the Bankruptcy Judgment does not expire until 2026. They

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18 <sup>10</sup> Dkt. 107.

19 <sup>11</sup> Defendants' Motion to Stay Pending Appeal (Dkt. 164); Order Granting Motion  
20 for Stay Pending Appeal (Dkt. 172).

21 <sup>12</sup> See, e.g., Memorandum by Bankruptcy Appellate Panel Judges Brand, Jury and  
22 Faris, re: Appeal on Civil Action Number: NC-16-1277-BJuF, NC-16-1299-BJuF,  
23 Affirmed in Part, and Vacated and Remanded in Part (Dkt. 179); Memorandum  
24 Decision Following Remand (Dkt. 200); Judgment Following Remand (Dkt. 204);  
25 Notice of Appeal to BAP filed by Plaintiff Kieran Buckley (Dkt. 210);  
26 Memorandum by Bankruptcy Appellate Panel Taylor, Faris, Brand, re: Appeal on  
27 Civil Action Number(s): NC-19-1016-TaFB and NC-19-1025-TaFB, Affirmed (Dkt.  
28 280); Mandate by 9th Circuit Court of Appeals, Deputy Clerk, Cecil Silva. CA  
No.: 20-60021. BAP No. NC-16-1277-BJuF (Dkt. 290); Judgment Following Remand  
(Dkt. 300); Notice regarding Granting of Petition for Writ of Certiorari (Dkt.  
312).

27 <sup>13</sup> See Dkts. 273 and 306.

28 <sup>14</sup> See Cal. Civ. Proc. Code ("CCP") § 683.020. Under this rule, the State  
Judgment is set to expire on October 4, 2022.

1 also argue that allowing renewal at this point would be  
2 premature. The Bartenwerfers are incorrect.

3 Renewal of a judgment in federal court "must accord with the  
4 procedure of the state where the court is located."<sup>15</sup> Under  
5 California law, the first-time renewal of a judgment can occur at  
6 any time within 10 years,<sup>16</sup> and may be effectuated  
7 "notwithstanding any stay of enforcement of the judgment, but the  
8 renewal of the judgment does not affect the stay of  
9 enforcement."<sup>17</sup>

10 Given that fewer than 10 years have elapsed since entry of  
11 the State and Bankruptcy Judgments, neither of which have been  
12 renewed, Mr. Buckley is within his rights to renew them  
13 notwithstanding and without affecting the Stay Order. Because  
14 renewal is a purely "ministerial act, involving only the clerk of  
15 court processing a form,"<sup>18</sup> Mr. Buckley can obtain valid renewals  
16 without this court's permission or approval.

17 Nonetheless, the court will address here an apparent point  
18 of confusion regarding the renewal process. In their papers,  
19 both parties have expressed concern regarding the ongoing effect  
20 of the State Judgment and the corresponding scope of the  
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22 <sup>15</sup> Fed. R. Civ. P. 69(a)(1), made applicable by Fed R. Bankr. P. 7069. See  
23 also In re Romano, 371 F. App'x 729, 730 (9th Cir. 2010); Fid. Nat. Fin., Inc.  
24 v. Friedman, 855 F. Supp. 2d 948, 962 (D. Ariz. 2012) (citing In re Est. of  
Ferdinand E. Marcos Hum. Rts. Litig., 536 F.3d 980, 988 (9th Cir. 2008))  
("There is no federal statute specifically governing renewal of judgments.").

25 <sup>16</sup> CCP § 683.130(a) ("[T]he application for renewal of the judgment may be  
26 filed at any time before the expiration of the 10-year period of  
enforceability.").

27 <sup>17</sup> CCP § 683.210.

28 <sup>18</sup> Rubin v. Ross, 65 Cal. App. 5th 153, 165 (2021), review denied (Aug. 25,  
2021) (citing Goldman v. Simpson, 160 Cal. App. 4th 255, 262 (2008)).

1 Bankruptcy Judgment. The Bartenwerfers presume the latter has  
2 superseded the former and worry that renewing both will confuse  
3 the record with duplicative judgments. Similarly, Mr. Buckley  
4 submits that the Bankruptcy Judgment entailed entry of an award  
5 of the damages declared nondischargeable, in addition to the  
6 declaration of nondischargeability. The court respectfully  
7 disagrees with both parties.

8 The language of the Bankruptcy Judgment<sup>19</sup> declares a portion  
9 of the damages awarded by the State Judgment nondischargeable but  
10 does not reenter an award of such damages in this court.<sup>20</sup> The  
11 State Judgment therefore appears independently and crucially  
12 operative, as a predicate to the Bankruptcy Judgment's  
13 declaration of nondischargeability.

14 Accordingly, it is **ORDERED**:

15 **1.** The Motion is hereby **GRANTED** to the extent it seeks  
16 confirmation that the Stay Order does not prevent renewal of the  
17 Bankruptcy Judgment and/or the State Judgment. Mr. Buckley may  
18 follow applicable procedures to accomplish such renewal(s).

19 **2.** The Motion is **DENIED** to the extent it requests any  
20 other relief from the court. The court takes no position as to  
21 the substance of any renewal application, including as to any  
22 amounts set forth therein.

23  
24 <sup>19</sup> Specifically, the Bankruptcy Judgment provides: "The *damages awarded by the*  
25 *state court* for [certain enumerated bases], for a total debt in the amount of  
26 \$153,945.00, plus interest thereon accruing at 10% per annum from October 4,  
2012 forward, *are hereby declared non-dischargeable* pursuant to 11 U.S.C. §  
523(a)(2)(A)." Dkt. 143, p. 2.

27 <sup>20</sup> Although Mr. Buckley is correct in pointing out that the court had  
28 authority to enter such a money judgment, *e.g.*, *In re Sasson*, 424 F.3d 864,  
874 (9th Cir. 2005), it is clear from the Bankruptcy Judgment that the court  
did not do so.

1           **3.**     The July 14 hearing on the Motion is hereby **VACATED**.  
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3                           **\*\*END OF ORDER\*\***  
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**Court Service List**

[None]